



February 16, 1999

Ms. Patricia A. Williams  
Assistant City Attorney  
City of Plano  
P.O. Box 860358  
Plano, Texas 75086-0358

OR99-0466

Dear Ms. Williams:

You ask that this office reconsider its decision in Open Records Letter No. 98-2659 (1998). Your request was assigned ID# 122133.

In Open Records Letter No. 98-2659, this office determined that the City of Plano may not withhold from the requestor a complainant's identity based on the informer's privilege.<sup>1</sup> The city had sought to withhold the information without first seeking a decision from this office that the privilege was applicable in that particular case. Open Records Letter No. 98-2659 held that, as this office had not ruled on the applicability of the informer's privilege to the particular information at issue, the city lacked a "previous determination" about whether the information is excepted from disclosure and was consequently required to request a decision from this office about whether the informer's privilege applies to the information. Gov't Code § 552.301; Open Records Decision No. 435 (1986). You now contend that numerous formal and informal decisions of this office that determine the applicability of the informer's privilege to other requested information constitute "previous determinations" of this office on the applicability of the privilege to the information at issue in Open Records Letter No. 98-2659.

We disagree with your contention. *See Houston Chronicle Publ'g Co. v. Mattox*, 767 S.W. 695, 698 (Tex. 1989), *Rainbow Group, Ltd. v. Texas Employment Comm'n*, 897 S.W.2d 946 (Tex. App.—Austin 1995, writ denied); *see* Open Records Decision No. 435 (1986). Moreover, we decline to reconsider Open Records Letter No. 98-2659.

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<sup>1</sup>In this case, the complaint concerned a dentist's disposal of bio-hazardous materials.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kay Hastings".

Kay Hastings  
Assistant Attorney General  
Open Records Division

KHG/ch

Ref.: ID# 122133

Enclosures: Submitted documents

cc: Dale Selzer, D.D.S.  
6841 Coit Road-Suite A  
Plano, Texas 75024  
(w/o enclosures)